



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

7a

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,698	10/17/2000	Guy Nathan	871-95	1505

7590 03/13/2002

NIXON & VANDERHYE P.C.  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4000

EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

IC

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/688,698	NATHAN ET AL.
	Examiner	Art Unit
	Scott E. Jones	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 January 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 12-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 25 January 2002 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.                    6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment filed on January 25, 2002 in which applicant submits changes to the specification, changes to the drawings, cancels claims 1-11 without prejudice or disclaimer, adds new claims 12-18, and responds to the claim rejections.

***Drawings***

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 25, 2002 have been approved. However, additional informalities are cited by the draftsperson on the PTO-948 attached hereto. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnny Rockets Name That Tune.

Johnny Rockets Name That Tune discloses:

Regarding Claim 12:

- a name that tune game having multiple choice competition games;

- a remote server (game server) and at least one terminal operable to communicate with the server over a communications network (player personal computer having an Internet connection);
- the terminal includes an audio system for playing in connection with a game at least a portion of a musical recording (player personal computer sound system);
- a duration controller for controlling the duration of play of the musical recording (only a short portion of the song is played);
- the name that tune Web page displays a question and has a drop-down menu suggesting multiple choice answer to the question (questions 1-5);
- the question relates to the musical recording that has been played (Music Selection Number 1 is ?);
- a user interface (Web page and player personal computer mouse and keyboard) that enables a user to select an answer from the displayed multiple choice answers;
- a scorer for recording the answers selected by the player and determining if the answer corresponds to a correct answer (How Did I Do?).

Regarding Claim 13:

- the terminal is a jukebox system that includes a storage device that stores a library of musical recordings that can be played on the terminal, and wherein the library of musical recordings can be updated with additional musical recordings through communication with the server.

Regarding Claim 14:

- the musical recording played in connection with the game is selected from the library of musical recordings stored in the storage device of the jukebox.

Regarding Claim 15:

- the terminal sends information to the server regarding how the user performed during the game.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnny Rockets Name That Tune in view of Tom & Liz's Name That Tune.

Johnny Rockets Name That Tune discloses that as discussed above regarding Claims 12-15.

Johnny Rockets Name That Tune seems to lack explicitly disclosing a ranking system to rank player's performance.

Tom & Liz's Name That Tune, like Johnny Rockets Name That Tune is a computer/network-based name that tune game. Tom & Liz's Name That Tune shows:

Regarding Claim 16:

- the server collects game performance information for a plurality of different users and ranks the users according to their performance (pp. 4 and 5 of 10).

Regarding Claim 17:

- the server is operable to send user-ranking information to the terminal, and the terminal is operable to display ranking information.

Regarding Claim 18;

- the system includes a plurality of said terminals (each player's personal computer having an Internet connection) at different locations (players live in a plurality of states), each of the terminals being operable to communicate with the server, and further wherein the server is operable to collect performance information on users who play the game at any of the terminals to send user ranking information to each of the terminals.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the player performance ranking system of Tom & Liz's Name That Tune game in Johnny Rocket's Name That Tune game. Providing a display of player rankings for games or game tournaments is notoriously well known to one of ordinary skill in the gaming art. Doing so motivates a game player to perform well and enables players to size up the competition.

*Response to Arguments*

7. Applicant's reply with respect to claims 12-18 have been considered but are moot in view of the new ground(s) of rejection.
8. The amendment to the title of the invention is approved.
9. The proposed drawing correction is approved, however, additional informalities are cited by the draftsperson on the PTO-948 attached hereto.
10. The amendment to the abstract is approved and the objection is withdrawn.
11. The rejections to Claims 1-11 under 35 U.S.C. 112, second paragraph, are moot in view of applicant canceling claims 1-11 and adding new claims 12-18.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Austin Cyber Limits: Name That Tune [online], [retrieved 2001-07-23]. Retrieved from the Internet: <<http://www.pbs.org/klru/austin/games/namethattune.html>>
- Mickey B's Juke Box Revue - Name That Tune! [online], [retrieved 2001-07-23]. Retrieved from the Internet: <<http://mickeyb.com/tune/>>
- Back to the Tunes [online], [retrieved 2001-07-23]. Retrieved from the Internet: <<http://citic5.hispeed.com/rules.html>>
- These references disclose "name that tune" music games.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Scott E. Jones  
Examiner  
Art Unit 3713

SEJ  
sej  
March 7, 2002

J. H. Cheng  
Primary Examiner